

REMARKS

This Amendment is responsive to the Office Action mailed April 7, 2006. Claims 1 – 10 were pending, and all claims were rejected. Specifically, Claims 1 – 5, and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Pub. No. 20020184055 to Naghavi, in view of U.S. Patent No. 6,057,764 to Williams. Claims 6 – 9 were rejected under 35 U.S.C § 103(a) as being unpatentable over Naghavi, in view of Williams, in further view of U.S. Patent No. 6,604,080 to Kern.

In response, the Applicants have amended Claims 1, 2 and 6 – 10, and have added newly drafted claims 11 – 14. Specifically, the present claims are directed to a method and system that tracks the amount of time a worker spends in an area (i.e. liability zone) or areas of a workplace environment. By tracking the amount of time a worker spends in areas which may have different possible exposure levels for risk of injury, a fair assessment can be made as to the amount of worker's compensation premium that should be paid for that worker's activities.

In contrast to the present invention, Naghavi, as understood by the Applicants, merely discloses a proprietary healthcare operating system for a PC specifically adapted to interface with medical devices connected to a PC. Naghavi does not disclose detecting a human in an environment, nor does Naghavi disclose tracking an amount of time the human spends in any particular area in the environment in order to determine a measure of risk exposure or an insurance premium. Moreover, the Applicants contend that this reference is not even relevant art, since it is not directed to solving the same or similar problem, and has no mention whatsoever of tracking workers for determining an insurance premium.

Williams discloses an alarm system whereby a detected person may have a personal device that transmits an authorization code to prevent the alarm system from activating. As with Naghavi, Williams does not disclose any system or method for tracking an amount of time a person spends in different areas, nor that this time information is used to determine a measure of risk or assessment or to calculate an insurance premium. As with Naghavi, Williams does not teach or disclose that a measure of risk or an insurance premium may be based on an amount of time a worker spends in a predefined area (liability zone).

Finally, Kern discloses a computer system used to calculate worker's compensation insurance rates. As understood by the Applicants, this system is merely a standard computer system used to calculate insurance rates and premiums, and is not directed to any new methodology for calculating worker's compensation insurance premiums based upon an amount of time a worker is in various liability zones.

In summary, the three cited references, either individually or taken as group, do not reasonably suggest to one of skill in the art that an insurance premium can be calculated based upon tracking an amount of time a worker spends in at least one area (liability zone). For at least this reason, it is believed that the present claims are now in condition for allowance.

Furthermore, the three references appear to be so unrelated that it is unreasonable to presume that one of skill in the art would even look to these three references in order to form the present invention (Naghavi discloses a healthcare operating system; Williams discloses an alarm system; and Kern discloses a computer system to calculate insurance rates). None of these references provide any motivation for the hypothetical combination

now proposed by the Examiner, and it appears that the Examiner is merely using the teachings of the present invention to select elements from disparate documents – i.e. is engaging in impermissible “hindsight reconstruction.” As noted above, however, this combination fails in any event, since none of the cited documents disclose tracking an amount of time a person spends in an area in order to calculate an insurance premium.

If the Examiner believes that a telephone conference will expedite the prosecution of this case, the Examiner is requested to call the undersigned attorney at the listed telephone number.


The Commissioner is hereby authorized to charge any fees (or credit any overpayment) associated with this communication and which may be required under 37 CFR §1.78 to Deposit Account No. 50-2603, **referencing Attorney Docket No. 358623.00100. A duplicate sheet is attached.**

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to: Commissioner for Patents, US Patent & Trademark Office, Alexandria, VA 22313-1450, on June 29, 2006.

Dated: 6/29/2006

Signed: 
Maryalice Kelley